

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

WP(C).No. 18660 OF 2007(U)

PETITIONER:

ABDULRAHIMAN HAJI, S/O.ALAVI,
VADAKKAN HOUSE, VANIYAMBALAM P.O.

BY ADV. SRI.M.M.ABDUL AZIZ (SR.)
SRI.JYOTHISH.J.KALLINGAL

RESPONDENTS:

1. THE SUB INSPECTOR OF POLICE,
WANDOOR POLICE STATION, WANDOOR.

2. THE CIRCLE INSPECTOR OF POLICE,
WANDOOR.

3. KOOTTALA ARUN,
S/O.SANKARA NARAYANAN,
AMBALAYAM, KARUTHERI,
P.O.ANCHACHAVADI.

4. THONNITHODIYA UNNERI,
S/O.KUNJAN, TOONGODE.P.O.

BY ADV. SRI.K.SHRIHARI RAO
SMT.N.SHOBHA
GOVT. PLEADER SRI. P. RAVINDRA BABU.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 A PHOTOSTAT COPY OF THE SALE DEED NO. 6773/2004
 OF THE SRO, WANDOOOR, DATED 21.12.2004.
- EXT.P2 A PHOTOSTAT COPY OF THE RECEIPT OF THE VILLAGE
 OFFICER, WANDOOOR ISSUED TO TE PETITIONER FOR
 PAYMENT OF BASIC TAX FOR THE LAND DATED
 3.11.2006.
- EXT.P3 A TRUE PHOTOSTAT COPY OF THE PETITION
 SUBMITTED TO THE 1ST RESPONDENT DATED 16.6.2007.
- EXT.P4 A PHOTOSTAT COPY OF THE PURCHASE CERTIFICATE
 NO. 1601/1981 IN SUO MOTO PROCEEDINGS NO. O.A. NO.
 71/1981 OF TE DEPUTY COLLECTOR AND LAND
 TRIBUNAL, MALAPPURAM.

RESPONDENTS' EXHIBITS:

- EXT.R3(a) TRUE COPY OF THE COMPLAINT DATED 16.5.2007 OF
 THE EXECUTIVE OFFICER, KARIKKADU DEWASWOM
 TO THE 1ST RESPONDENT.
- EXT.R3(b) TRUE COPY OF THE MASS PETITION DATED 19.6.2007 OF
 THE DEVOTEES TO THE DISTRICT COLLECTOR,
 MALAPPURAM.

// TRUE COPY //

P.S. TO JUDGE.

knc/-

P.R. RAMAN & K. HEMA, JJ.

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W.P.(C) NO. 18660 OF 2007

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DATED THIS, THE 28TH DAY OF JUNE, 2007.

J U D G M E N T

Raman, J.

Petitioner claims to be in exclusive possession and enjoyment of an extent of 6 acres of land in R.S. 175/1 in Block No. 78 (Old Sy. No. 240 & 241/2) at Vaniyambalam in Wandoor Village. It is stated to be rubber plantation with license from the Rubber Board. Ext.P1 is the title deed of the property. Ext.P2 is the basic tax receipt. It is the specific contention of the petitioner that as part of the enjoyment of the property, he has slaughter tapped the rubber trees standing thereon and cut and removed the same. Now it is time for replanting. While so, respondents 3 and 4 are causing physical obstruction. Though a complaint was made to the police, no action is taken and hence this writ petition.

2. Respondents 3 and 4 filed a counter affidavit. According to them, the property belongs to Karikkadu Devaswom and a temple is situated inside the property and the same is under the control of the Devaswom. According to them, the said temple is governed by the provisions of the Hindu Religious and Charitable Endowment Act, 1951. But the petitioner

has not chosen to make the HR & CE Board or the Executive Officer of the Devaswom as parties to this writ petition. It is further stated that a suit - O.S. 275/1991 is pending before the Sub Court, Manjeri filed by the Devaswom Executive Officer. One of the relief sought for in that suit is for a prohibitory injunction against the defendants. Subsequently, they sought to amend the suit by incorporating a prayer for recovery of possession on the strength of title. Though the said prayer was declined by the civil court, the same has been allowed by this Court as per orders passed in W.P.(C) 29161/2003. In such circumstances, they dispute the claim of the petitioner as owner of the property. They also submit that being a civil dispute, the relief sought for be declined by this Court.

3. Heard the learned counsel for the petitioner as also for the respondents and the learned Government Pleader.

4. According to the petitioner, he is in possession of the property and has already slaughter tapped the rubber trees and cut and removed the same. This is not disputed. The limited prayer is for affording police protection for replantation. This will not in any way adversely affect the right of the parties nor their respective contentions in the civil suit.

5. For the limited purpose of disposal of this writ petition, it is not necessary for this court to dwell into the rival contentions of the parties,

either with regard to the title or the relief that the respondents have claimed in the civil suit. However, since the rubber trees were cut and removed by the petitioner and when he wants to replant the property, in the absence of any order injunctioning him from doing so, passed by any competent civil court, he cannot be physically prevented from doing so. Hence respondents 1 and 2 will give protection to the petitioner for the limited purpose of replantation. This will not confer any right on the petitioner herein better than what they have otherwise. We also clarify that the civil court will decide the dispute untrammelled by any observations made in this judgment.

The writ petition is disposed of as above.

P.R. RAMAN,
(JUDGE)

K. HEMA,
(JUDGE)

knc/-